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SNMP RESEARCH, INC. and SNMP	:	
RESEARCH INTERNATIONAL, INC.,	:	
	:	Case No. 3:20-cv-00451-CEA-DCP
Plaintiffs,	:	
	:	
v.	:	U.S. District Judge Charles E. Atchley
	:	
BROADCOM INC.; BROCADE	:	
COMMUNICATIONS SYSTEMS LLC; and	:	
EXTREME NETWORKS, INC.,	:	
	:	
Defendants.	:	
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Defendant Extreme Networks, Inc. (“Extreme”) respectfully moves this Court to dismiss certain claims of Plaintiffs SNMP Research, Inc. and SNMP International, Inc.’s (collectively, “SNMPR”) Amended Complaint (ECF No. 244) (the “FAC”), pursuant to Federal Rule of Civil Procedure 12(b)(6). In support of this motion, Extreme states as follows:

2. Any claims in the FAC for breach of Section 16 of the license agreement between Extreme and SNMPR dated October 22, 2001 (the “Legacy Agreement”) must be dismissed for failure to state a claim upon which relief may be granted;

3. Any claims in the FAC seeking the 1.5% rate, compounded monthly, listed in Section 24 of the Legacy Agreement must be dismissed for failure to state a claim upon which

relief may be granted because that rate is usurious under Tennessee law (*see* Tenn. Code Ann. §§ 47-14-103(2), 47-14-110) and unenforceable as against public policy;

4. The claim for fraud in the FAC must be dismissed for failure to state a claim upon which relief may be granted because it is barred by the economic loss doctrine;

5. In further support of this motion, Extreme submits and relies upon the following documents filed contemporaneously herewith:

(a) Extreme's accompanying Memorandum of Law; and

(b) the Declaration of Leslie A. Demers and accompanying exhibits; and

6. Extreme requests oral argument on this motion at the Court's earliest convenience.

CERTIFICATION

In accordance with the Court's Order (ECF No. 10), Extreme hereby certifies that on March 15, 2023, the parties met and conferred to determine whether an amendment could cure what Defendants believe is a deficient pleading, and have been unable to agree that the pleading is curable by a permissible amendment.

DATED: March 16, 2023
New York, New York

Respectfully Submitted,

/s/ Leslie A. Demers

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Attorneys for Extreme Networks, Inc.

CERTIFICATE OF SERVICE

I hereby certify that Extreme Networks, Inc.'s Motion to Dismiss the Amended Complaint, is being served on all counsel of record in the above-captioned litigation via electronic filing and email on this 16th day of March, 2023.

/s/ Leslie A. Demers